

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

LENZZIE R. VANCE,
Petitioner,

vs.

Civil Action 2:10-CV-746
Judge Marbley
Magistrate Judge King

WARDEN, HOCKING CORRECTIONAL
FACILITY,

Respondent.

ORDER

On August 20, 2010, the United States Magistrate Judge issued a *Report and Recommendation* recommending that petitioner be denied leave to proceed *in forma pauperis*. *Report and Recommendation*, Doc. No. 3. Although petitioner was advised of his right to object to the *Report and Recommendation* and of the consequences of his failure to do so, *Id.*, at 2, petitioner has not filed an objection. Since the filing of the *Report and Recommendation*, however, petitioner has paid the \$5.00 filing fee and has filed a motion for leave to proceed *in forma pauperis*. Doc. No. 5.

Petitioner's original *Certificate* regarding his prison account, see Doc. No. 1, indicated that, as of March 24, 2010, petitioner had more than \$130.00 to his credit. *Id.* Attached to petitioner's motion for leave to proceed *in forma pauperis*, Doc. No. 5, is another *Certificate* indicating that, as of August 23, 2010, petitioner had approximately \$25.00 to his credit; his average monthly balance for the prior six months was almost \$100.00. *Id.*

Petitioner has paid the filing fee in this habeas corpus action. It does not presently appear that petitioner will incur expenses related to the litigation that he cannot be expected to bear. Under these circumstances, the Court concludes that petitioner's motions for

leave to proceed *in forma pauperis*, Doc. Nos. 1, 5, are without merit. Should petitioner's financial condition change materially, or should it appear that petitioner's prosecution of the action requires the appointment of counsel, petitioner may of course renew his request for leave to proceed *in forma pauperis*.

WHEREUPON, the *Report and Recommendation* is **ADOPTED AND AFFIRMED**. Petitioner's motions for leave to proceed *in forma pauperis*, Doc. Nos. 1,5, are **DENIED** without prejudice to renewal at a later stage of the proceedings

s/Algenon L. Marbley
Algenon L. Marbley
United States District Judge